



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

CITY OF NASHUA, NEW HAMPSHIRE

Petitioner :

v. :

CASE NO. M-0589

DECISION No. 87-61

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 93

Respondent :

APPEARANCES

Representing the City of Nashua:

Abilio Mendez, Esq., Counsel
L. Peter Benet, Director Public Works
Marilyn Greenwood, Director of Personnel

Representing AFSCME, Council 93:

James J. Barry, Jr., Esq., Counsel

BACKGROUND

The City of Nashua (City) by its Counsel on July 18, 1987 filed a "Motion to Vacate" certification issued to the American Federation of State, County and Municipal Employees, Council 93 (AFSCME) as exclusive representative of a bargaining unit of "First-line Supervisors, Public Works Department"; namely,

Foremen in the Street, Rubbish Collection,
Landfill, Shop, Treatment Plant Operations
and Park General departments; Assistant
Foremen in the Shop and Parks departments;
Supervisors in the Traffic Systems; and,
Chief of Party.

AFSCME through its Counsel filed objection to the City's motion on the basis of timeliness and that the City was essentially seeking reconsideration of the unit to which it had previously agreed.

Hearing was held in the Board's office in Concord on September 22, 1987 with both parties represented.

FINDINGS OF FACT

1. Certification of the unit for the regular full-time employees of the Nashua Public Works and Parks and Recreation departments, with the exception of supervisory and clerical employees was

issued to "American Federation of State, County and Municipal Employees, AFL-CIO, Local 365" under the Grandfathering provisions of RSA 273-A on December 7, 1976.

2. Certification of the unit "First-Line Supervisors, Public Works Department" was issued to "American Federation of State, County and Municipal Employees, Council 93" pursuant to an election held by PELRB.

DECISION AND ORDER

The certification issued to AFSCME, Council 93 on January 14, 1987 covering First-Line Supervisors in the Public Works Department, City of Nashua, Case No. A-0528 is hereby vacated.

The above action has been taken in light of the N.H. Supreme Court decision in the case of Appeal of Manchester Board of School Committee, (PELRB), No. 86-053 and because of the identity of the bargaining agent representing the supervisors and those whom they supervise. (Also, see concurrent opinion of BATCHELDER, J.)


EDWARD J. HASELTINE, Chairman

Signed this ____ day of October, 1987.

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman, Richard W. Roulx and Daniel Toomey present and voting. Also present, Executive Director, Evelyn C. LeBrun.

Although I concur in the result of this case, I believe that each International union, joint board, statewide labor association and even local union are structured in vastly different ways. Each group has vastly different policies on control, autonomy, the use of bargaining representatives and all aspects of the collective bargaining process; and, feel that each case should be carefully examined to ascertain if the affiliation clearly has a potential conflict of interest.


DANIEL TOOMEY, Labor Representative